



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WESTERN REGIONAL OFFICE
P. O. BOX 10
PHOENIX, ARIZONA 85001

4590008
B1-9
SDMS Document ID



2162888

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JUN 15 2004

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IN REPLY
REFER TO:

Environmental Management, M.S. 480
(602) 379-3491

JUN 10 2004

Mr. Eric Johnson
Environmental Protection Agency
Region 8
999 18th Street, Suite 300
Mail Code 8ENF-RC
Denver, Colorado 80202-2466

RE: Concerns Regarding the Hecla Mining Company Apex Site Pond 2 Closure Work Plan

Dear Mr. Johnson:

We are in receipt of a letter dated May 28, 2004, received by the Bureau of Indian Affairs (BIA), Western Regional Office, Branch of Environmental Management on June 8, 2004 (copy enclosed). We appreciate the opportunity to comment on the Apex Site Pond 2 Work Plan (Work Plan) developed by Monster Engineering Incorporated, Laporte, Colorado on behalf of the Hecla Mining Company (Hecla). The Work Plan was received on April 12, 2004.

As you probably know, the mission of the BIA is to protect Indian trust assets and promote the quality of life through self-governance and government-to-government relationships. The establishment of the Apex Site Pond 2 (Pond 2) without appropriate planning and analyses, the lack of coordination by the Environmental Protection Agency (EPA), Region 8 with the BIA, and the liabilities this waste disposal facility poses are critical concerns in the matter of the closure of Pond 2.

Our first concern is that there is a lack of coordination and/or consultation with the Paiute Indian Tribe of Utah (Tribe) and the BIA.

Regarding coordination with the BIA, we are not in receipt of all of the documentation regarding the characterization and closure of Pond 2. Our last correspondence from EPA, Region 8 is a letter, dated January 16, 2002, transmitting results of an October, 2001 investigation. This letter also advises that you have replaced Ms. Janice Pearson as the EPA technical lead for this project. Since that time and to the date of enclosed letter from EPA, we have not been advised in writing or by telephone of key activities and reports regarding the closure of Pond 2.

On March 17, 2004, we received a letter from Hecla notifying the BIA that final closure of Pond 2 would occur in mid-April. After receiving this letter, Mr. John Krause, Regional Environmental Scientist, BIA contacted Mr. Chris Gypton, Project Manager, Hecla Mining Company to obtain further information as to the closure of Pond 2. Mr. Gypton stated that a closure plan existed and that it was the responsibility of the EPA, Region 8 to coordinate all data and information. After talking with Mr. Gypton, Mr. Krause contacted you to obtain the information. You believed that it was not necessarily your responsibility to provide this information. Ultimately, on April 12, 2004, we obtained the Work Plan from Hecla.

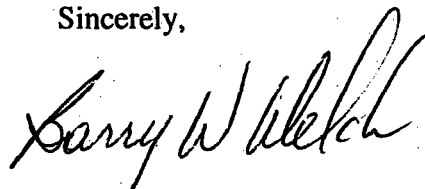
This lack of coordination and information has now hampered our ability to provide a thorough analysis of the closure of Pond 2 by June 11, 2004. Since April 12, 2004, we have created a scope of work to obtain a consultant to review the Work Plan, conduct a site visit, attend two meetings in St. George, Utah, and provide a summary report. We believe a communication and coordination protocol should be established between EPA, Region 8, the Tribe, and the BIA.

Regarding coordination and consultation with the Tribe, since we were not aware of any Pond 2 activities since January, 2002, we have been unaware of the level of consultation and coordination with the Tribe on this matter. We do find the statement that, "EPA will infer the Band's concurrence on the closure work plan absent a response by June 11, 2004" not conducive to a meaningful consultation process. A lack of a response by the Tribe nor the BIA does not necessarily indicate concurrence.

Our main concerns with the waste in Pond 2 involve protection of the ground water, seepage from Pond 2 to the subsurface and surface water, restricted or loss use of the acreage at Pond 2, post-closure monitoring of the facility and ground water, and financial assurance. Further, we believe, in order to characterize Pond 2, and releases and potential releases from Pond 2, subsurface soils and ground water analyses and monitoring under Pond 2 will be necessary. Regarding post-closure monitoring, if Pond 2 is not removed, a minimum ground water monitoring and facility maintenance program should be established for at least a 30-year period consistent with solid waste landfill closures. A financial assurance mechanism should be established to insure post-closure monitoring of Pond 2.

Finally, this letter also advises you that the BIA, in consultation with the Tribe, as trustee wherein the United States is the owner of the property for the beneficial use of the Tribe, reserves its responsibility and authority necessary to take any action(s) we deem appropriate in support of our concerns regarding Pond 2. If you have any questions or require further information, please contact Mr. Krause at 602-379-3491.

Sincerely,



Acting Regional Director

Enclosure